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 Digital Holdings Inc.*

**UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA**

IN RE MARATHON DIGITAL HOLDINGS
 DERIVATIVE LITIGATION

Lead Case No: 2:23-cv-01055-RFB-BNW

This Document Relates to:
 ALL ACTIONS

**DISCOVERY REPORT
 STIPULATION AND [PROPOSED]
 ORDER**

Pursuant to this Court's May 21, 2024 Order (ECF No. 47), Plaintiffs filed their Consolidated Complaint on June 25, 2024 (ECF No. 48), and Defendants filed their motion to dismiss Plaintiffs' Consolidated Complaint on August 9, 2024 (ECF No. 50).

In light of the pendency of this motion, the parties have discussed this Court's minute order dated June 26, 2024, directing the parties to file the parties' Discovery Plan and Scheduling Order on or before September 23, 2024.

1 This is a federal securities law action, asserting claims under Section 14(a) of the
 2 Securities Exchange Act of 1934, 15 U.S.C. § 78n(a)(1), and Sections 10(b) and 21D of
 3 the Securities Exchange Act of 1934, 15 U.S.C. §§ 78j(b), 78u-4(f). Under the Private
 4 Securities Litigation Reform Act of 1995:

5
 6 In any private action arising under this chapter, all discovery
 7 and other proceedings shall be stayed during the pendency
 8 of any motion to dismiss, unless the court finds upon the
 9 motion of any party that particularized discovery is neces-
 10 sary to preserve evidence or to prevent undue prejudice to
 11 that party.

12 15 U.S.C. § 78u-4(b)(3)(B).

13 This Private Securities Litigation Reform Act of 1995 provision “mandate[s] a stay
 14 of discovery during the pendency of a summary judgment or dismissal motion.” *Cowen v.*
 15 *U.S. Dist. Ct. for the N.D. Cal.*, 189 F.3d 909, 911 (9th Cir. 1999). “[T]his provision
 16 ‘clearly contemplates’ that discovery should be permitted only after the court has sustained
 17 the legal sufficiency of the complaint.” *Sokolowski v. Adelson*, 2014 WL 1777996, at *1
 18 (D. Nev. May 2, 2014) (quoting *Cowen*, 189 F.3d at 912). “[T]he plain language of the stay
 19 provision clearly encompasses any action that asserts claims under the 1934 Securities
 20 Exchange Act.” *Id.* at 3.

21 The parties accordingly agree that the September 23, 2023 deadline for the parties’
 22 Discovery Plan and Scheduling Order should be extended until 30 days following a
 23 decision on the motion to dismiss Plaintiffs’ Consolidated Complaint on August 9, 2024
 24 (ECF No. 50).

25 Dated: August 12, 2024

26 **LEVERTY & ASSOCIATED LAW CHTD.**

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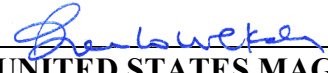
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ORDER

IT IS SO ORDERED. The September 23, 2023 deadline for the parties' Discovery Plan and Scheduling Order is extended until 30 days following a decision on the motion to dismiss Plaintiffs' Consolidated Complaint, filed on August 9, 2024 (ECF No. 50).



UNITED STATES MAGISTRATE JUDGE
DATED: 8/14/2024